

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
NORTHWESTERN DIVISION

United States Securities and Exchange
Commission,

Court File No. 4:15-cv-053

Plaintiff,

vs.

North Dakota Developments, LLC, Robert L.
Gavin, and Daniel Hogan,

**SECOND INTERIM FEE APPLICATION
FOR PROFESSIONAL FEES AND
EXPENSES OF RECEIVER GARY
HANSEN**

Defendants,

and

North Dakota Developments Property
Management LLC, Great American Lodge
LLC, NDD Holdings 1 LLC, NDD Holdings
2 LLC, NDD Modular LLC, Augusta
Exploration, LLC, and Ames Engineering &
Development Services LLC,

Relief Defendants.

For his Second Interim Fee Application for Professional Fees and Expenses of Receiver Gary Hansen (“Application”), Receiver Gary Hansen (the “Receiver”) states:

A. Information about the Applicant and the Application

The Receiver was appointed on May 18, 2015 pursuant to the Court’s Order Granting Plaintiff’s Motion for Preliminary Injunction and Appointment of Receiver, Asset Freeze, and other Equitable Relief [Dkt. No. 20] (“Receiver Order”). This Second Interim Fee Application covers services provided by the Receiver and his law firm Fox Rothschild LLP (“Fox Rothschild”), from December 1, 2016 through January 31, 2018.

Pursuant to the Receiver's agreement with the United States Securities and Exchange Commission ("SEC"), the Receiver reduced his hourly rate for this matter to \$525. All other rates were reduced by ten percent, with a cap of \$525. Below is a list of the names and hourly rates of all professionals and paraprofessionals at Fox Rothschild who have provided services to the Receivership during this billing time period.

<u>Timekeeper</u>	<u>2016 Rate</u>	<u>2017/ Jan. 2018 Rate</u>
Gary Hansen	\$525.00	\$525.00
Phillip Martin	\$450.00	\$450.00
Ranelle Leier	\$418.50	\$445.50
David Galle	\$405.00	\$405.00
Matthew Lasley	\$351.00	\$369.00
Alex Rubenstein	\$274.50	\$315.00
Thomas Moran	\$229.50	\$288.00
Samuel Tunheim		\$288.00
Aisha Elmquist		\$292.50
Lyndsey Wurst		\$135.00
Stephen Overby	\$175.50	\$180.00

B. Status Update

Since his appointment, the Receiver has extensively investigated the available assets of the receivership entities. The identified assets are far less than the approximately \$60 million contributed by investors. The Receiver has also spent significant time communicating with creditors of North Dakota Developments, LLC ("NDD") and the other receivership entities, as well as the defrauded investors in NDD. Although the Receiver was able to negotiate

settlements with certain creditors resulting in additional moneys being brought into the receivership, most of these efforts did not necessarily generate funds for the receivership. Nonetheless, the Receiver viewed his communications with creditors and investors as important services to be provided as part of the receivership.

The Receiver recently entered into a purchase agreement for the sale of the mobile housing units and the real property located at the proposed Great American Lodge – Culbertson, in Culbertson, Montana. The Receiver has submit a motion to authorize and confirm the sale to the Court. [Dkt. No. 146.] Pursuant to the purchase agreement, the purchaser will pay a purchase price of \$300,000 at closing. As detailed in the Receiver’s initial fee application, the Receiver previously sold the assets located on the Great American Lodge – Watford West property, with the purchase price being made in installment payments. The purchaser of the Great American Lodge – Watford West assets has made his scheduled installments payments. One installment payment remains, which is due in May 2018. The Receiver continues to market the remaining receivership assets and to investigate additional sources of funds for the receivership.

As of the date of this filing, the receivership has approximately \$1,360,000 in cash in its bank account. Since the initial fee application, the Receiver received the following additional payments:

- \$365,501.50 as the second installment payment from the sale of the Watford West assets;
- \$367,523.00 as the third installment payment from the sale of the Watford West assets.

Since the initial fee application, the Receiver has spent an additional approximately \$50,000.00 in administration of the receivership. The vast majority of these expenses fall into

two main categories: (1) fees and expenses related to patrolling and upkeep at the Culbertson site; and (2) the payment of property taxes.

The Receiver continues to compile creditor claims against the receivership entities. Exclusive of investor claims, the Receiver is currently aware of creditor claims totaling in excess of \$2 million. To date, the Receiver has not paid any creditor claims. Instead, once the receivership assets are liquidated, the Receiver will propose a distribution plan to the Court, which will include a process for notice to all known and unknown claimants and an opportunity for such claimants to be heard.

C. Current Fees and Expenses

This is the Receiver's second fee application. The Receiver is requesting approval from the Court for the payment of attorney's fees in the amount of \$172,505.55 and expenses in the amount of \$420.76 for the time period December 1, 2016 through January 31, 2018. Prior to the submission of the Application to the Court, the Receiver provided the SEC copies of the Receiver's billing statements to the SEC for its review and comment. The Receiver is also submitting the Receiver's billing statements to the Court for *in camera* review.

The chart below sets forth the billing professional or paraprofessional, the total hours billed by each person, and the total amount of billing for each person during the December 1, 2016 through January 31, 2018 time period.

<u>Timekeeper</u>	<u>Total Hours</u>	<u>Total Billing</u>
Gary Hansen	44.80	\$ 23,520.00
Phillip Martin	.40	\$ 180.00
Ranelle Leier	321.50	\$139,513.05
David Galle	1.10	\$ 445.50
Matthew Lasley	6.90	\$ 2,546.10
Alex Rubenstein	2.40	\$ 756.00
Aisha Elmquist	7.30	\$ 2,135.25
Samuel Tunheim	2.80	\$ 806.40

Thomas Moran	2.00	\$ 576.00
Stephen Overby	11.30	\$ 1,986.75
Lindsey Wurst	.3	\$ 40.50
TOTAL	400.80	\$172,505.55

The expenses for which the Receiver seeks reimbursement are summarized in the chart below.

Expenses – 12/1/2016 - 1/31/2018	
<u>Category</u>	<u>Amount</u>
Electronic research/Pacer	\$ 9.50
Registered agent annual fee	\$65.00
Messenger/Overnight delivery	\$19.26
Business filing fees	\$327.00
TOTAL	\$420.76

The Receiver's billing statements provide detailed time entries describing the work performed by each timekeeper and include additional details regarding the expenses for which the Receiver seeks reimbursement. In support of this Application, the Receiver has also submitted a Certification indicating *inter alia* that all of the fees and expenses for which he is seeking reimbursement are true and accurate and that such fees are reasonable, necessary and commensurate with the skill and experience required for the activity performed.

Pursuant to the Billing Instructions provided to the Receiver by the SEC, the Receiver acknowledges that, to the extent requested by the SEC, this Application may be subject to a 20% holdback of the requested fees and expenses, and that the total amounts held back during the course of the receivership will be paid out at the discretion of the Court as part of the final fee application submitted at the close of the receivership. If the SEC make such a request, the Receiver does not object to this request. If the Court orders that any of the requested fees and

expenses be held back, such funds will be held by the Receiver in a segregated account, payment of which will be considered by the Court with the Receiver's final fee application.

Therefore, the Receiver respectfully requests the Court to authorize payment to the Receiver in amount of \$172,926.31.

Dated: February 23, 2018

FOX ROTHSCHILD LLP

By: s/ Gary Hansen
Gary Hansen (MN #40617) admitted *pro hac vice*
Ranelle Leier (MN #277587) admitted *pro hac vice*

Campbell Mithun Tower – Suite 2000
222 South Ninth Street
Minneapolis, Minnesota 55402-3338
Telephone: (612) 607-7000
Fax Telephone: (612) 607-7100
E-Mail: *ghansen@foxrothschild.com*
rleier@foxrothschild.com

**RECEIVER AND ATTORNEY FOR RECEIVER FOR
DEFENDANT NORTH DAKOTA DEVELOPMENTS,
LLC AND RELIEF DEFENDANTS**